

## REMARKS

The Specification has been amended to include the ATCC deposit information. A receipt from ATCC is attached. Applicant has amended claims 1-6, 14, and 20-29. Claims 8-9 have been canceled. New claims 30 and 31 have been added. These changes have been made to place the claims in better form for examination and to further obviate the 35 U.S.C. §§102(b), 103(a) and 112 rejections as set forth in the Office Action dated November 3, 2005. It is believed that none of these amendments constitute new matter. It is submitted that these amendments obviate the rejections. Withdrawal of these rejections is respectfully requested.

The Examiner has objected to claims 1, 6, 22, 23 and 28 for the inclusion of a blank line where the ATCC Accession number should be. Applicant has amended claims 1, 6, 22, 23, and 28 to include the ATCC Accession Number. Withdrawal of this objection is respectfully requested.

The Examiner has rejected claims 1-29, under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention. Specifically, the Examiner has rejected claims 1, 6, 22, 23 and 28, and claims 2-5, 7-21, 24-27 and 29 dependent thereon, as being indefinite in that the recitation of "seed of soybean line designated S030157" does not clearly identify the claimed soybean cultivar and seed and does not set forth the metes and bounds of the claimed invention. Applicant has amended claims 1, 6, 22, 23 and 28 to include the ATCC Accession Number. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 28 as being indefinite in the recitation of "A method of modifying fatty acid metabolism or modified carbohydrate metabolism into soybean". Applicant has amended claim 28. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 28 and 29 as being indefinite and confusing in that the claims state that the resulting plant will comprise "the nucleic acid molecule and has all of the physiological and morphological characteristics of soybean line S030157 listed in Table 1". Applicant has amended claims 28 and 29. Withdrawal of this

rejection is respectfully requested.

The Examiner has rejected claims 8 and 9 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicant has canceled claims 8 and 9. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 1-29 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has amended claims 1, 6, 22, 23 and 28 to include the ATCC Accession Number. Additionally, the undersigned avers that:

- (a) access to the invention will be afforded to the Commissioner during the pendency of the application;
- (b) all restrictions upon availability to the public will be irrevocably removed upon the granting of a patent;
- (c) the deposit will be maintained in a public depository for a period of 30 years or 5 years after the last request or for the enforceable life of the patent;
- (d) the viability of the biological material at the time of deposit was tested; and
- (e) the deposit will be replaced if it should ever become inviable or when requested at ATCC.

Accordingly, withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 20 in that the specification does not provide support for transforming the claimed soybean plant with a transgene encoding a stearyl-ACP desaturase, but rather teaches transforming the claimed soybean plant with DNA encoding an antisense sequence of stearyl-ACP desaturase. Applicant has amended claim 20. Withdrawal if this rejection is respectfully requested.

The Examiner has rejected claims 9-22 under 35 U.S.C §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over U.S. Patent 6,103,957. Applicant submits that there are numerous differences between soybean cultivar S030157 and the soybean cultivar of U.S. Patent 6,103,957. Applicant

submits herewith a Declaration by the inventor declaring that the instant soybean cultivar does not have the *Phytophthora* Rps 1k gene, whereas the soybean cultivar of the U.S. patent 6,103,957 has the *Phytophthora* Rps 1k gene. Therefore, the instant soybean cultivar is novel and nonobvious relative to the soybean cultivar of U.S. patent 6,103,957. Withdrawal of this rejection is respectfully requested.

In view of the above amendments and remarks, it is submitted that the claims satisfy the provisions of 35 U.S.C. §§102(b), 103(a) and 112. Reconsideration of this application and an early notice of allowance are respectfully requested.

<b>SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED</b>					
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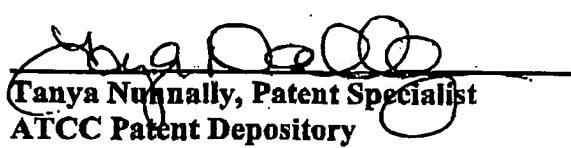
**From:** ATCC Patent Depository **Number of pages:** 1 (Including this page)

**REFERENCE:** Patent Deposit

**Description:** Soybean *Glycine max* (L.): S030157 assigned ATCC No. PTA-7222 (Docket or Case No.: 1421-146),  
Soybean *Glycine max* (L.): S030155 assigned ATCC No. PTA-7223 (Docket or Case No.: 1421-142),  
Soybean *Glycine max* (L.): S040117 assigned ATCC No. PTA-7224 (Docket or Case No.: 1421-179),  
Soybean *Glycine max* (L.): 4706198 assigned ATCC No. PTA-7225 (Docket or Case No.: 1421-190),  
Soybean *Glycine max* (L.): S040130 assigned ATCC No. PTA-7226 (Docket or Case No.: 1421-192), and  
Soybean *Glycine max* (L.): 4145306 assigned ATCC No. PTA-7227 (Docket or Case No.: 1421-178).

**Date of Deposit:** November 22, 2005. The ATCC Certificate of Deposit will be forwarded to you within 30 days. The following fees will be invoiced:

Total fees for PTA-7222 to PTA-7227 \$15,000.00  
(storage/informing/viability testing)

  
Tanya Nunnally, Patent Specialist  
ATCC Patent Depository

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